

HOUSE BILL 1516

By Hulsey

AN ACT to amend Tennessee Code Annotated, Title 36,
Chapter 6, relative to parental relocation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-6-108, is amended by deleting subsections (c)-(j) in their entirety and substituting instead the following:

(c)

(1) If the relocating parent seeks to move with the child, the other parent may, within thirty (30) days of receipt of notice, file a petition in opposition to removal of the child. The court shall initially consider and find whether:

(A) The relocation does not have a reasonable purpose. For purposes of this subdivision (c)(1)(A), a reasonable purpose includes, but is not limited to, a significant purpose and one that is substantial when weighed against the gravity of the loss of the noncustodial parent's ability to participate fully in the child's life in a more meaningful way;

(B) The relocation would pose a threat of specific and serious harm to the child that outweighs the threat of harm to the child of a change of custody; or

(C) The parent's motive for relocating with the child is vindictive in that it is intended to defeat or deter visitation rights of the noncustodial parent or the parent spending less time with the child.

(2) Specific and serious harm to the child includes, but is not limited to, the following:

(A) If a parent wishes to take a child with a serious medical problem to an area where no adequate treatment is readily available;

(B) If a parent wishes to take a child with specific educational requirements to an area with no acceptable education facilities;

(C) If a parent wishes to relocate and take up residence with a person with a history of child or domestic abuse or who is currently abusing alcohol or other drugs;

(D) If the child relies on the parent not relocating who provides emotional support, nurturing, and development such that removal would result in severe emotional detriment to the child;

(E) If the custodial parent is emotionally disturbed or dependent such that the custodial parent is not capable of adequately parenting the child in the absence of support systems currently in place in this state, and such support system is not available at the proposed relocation site;
or

(F) If the proposed relocation is to a foreign country whose public policy does not normally enforce the visitation rights of noncustodial parents, that does not have an adequately functioning legal system, or that otherwise presents a substantial risk of specific and serious harm to the child.

(3) No presumption in favor of or against the request to relocate with the child shall arise. The court shall determine whether to permit relocation of the child based upon the best interests of the child. The court shall consider all relevant factors, including those factors found in § 36-6-106(a)(1)-(15).

(d) The court shall consider the availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent. The court shall assess the costs of transporting the child for visitation, and determine whether a

deviation from the child support guidelines should be considered in light of all factors, including, but not limited to, additional costs incurred for transporting the child for visitation.

(e) Nothing in this section shall prohibit either parent from petitioning the court at any time to address issues, such as, but not limited to, visitation, other than a change of custody related to the move. In the event no petition in opposition to a proposed relocation is filed within thirty (30) days of receipt of the notice, the parent proposing to relocate with the child shall be permitted to do so.

(f) It is the legislative intent that the gender of the parent who seeks to relocate for the reason of career, educational, professional, or job opportunity, or otherwise, shall not be a factor in favor or against the relocation of such parent with the child.

(g) Either parent in a parental relocation matter may recover reasonable attorney fees and other litigation expenses from the other parent in the discretion of the court.

(h) The burden of proof to demonstrate relocation is proper shall be upon the relocating parent.

(i) This section shall also apply to a parent who is subject to an injunction pursuant to § 36-6-116 or § 36-4-106(d)(5).

SECTION 2. This act shall take effect July 1, 2018, the public welfare requiring it.